

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

CESAR L. CASTELLANOS,

Defendant.

CASE NO. 8:05CR71

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) in this case. The parties have both objected to the PSR, asking that terms of the plea agreement be honored (Filing Nos. 45, 46). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Court's tentative findings are that the plea agreement should be upheld and the total offense level should be calculated as level 35.

IT IS ORDERED:

1. The Court's tentative findings are that the parties' objections (Filing Nos. 45, 46) to the PSR are granted;
2. The parties are notified that my tentative findings are that the PSR is correct in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 30th day of May, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge